IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

MFA.No. 82 of 2001(B)

OPMV.824/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, VADAKARA
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APPELLANT - PETITIONER:

CHAPPOTHIL BHASKARAN, S/O. RARUKUTTY,
AGED 45 YEARS, CHAPPOTHIL HOUSE,
KUNNAMANGALAM P.O.
KUNNAMANGALAM AMSOM DESOM,
KOZHIKODE DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS - RESPONDENTS:
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1. K.M. VELAYUDHAN, S/O. UNNARAM,
AGED 49 YEARS, MANAMMALL HOUSE,
PANTHALAYANI AMSOM, KOTHAMANGALAM
QUILANDY P.O., KOZHIKODE DISTRICT.

2. RAFEEQUE, S/O. ABDULLA, AGED 29 YEARS,
THATTARUKANDY MEETHAL HOUSE,
KARUVANGAD P.O., QUILANDY (VIA)
KOZHIKODE. (DELETED)

3. M/S. UNITED INDIA INSURANCE COMPANY LTD.,
BRANCH OFFICE, KALLINGAL BUILDING, MAIN
ROAD, BADAGARA.

NAME OF THE SECOND RESPONDENT IS DELETED
FROM THE PARTY AS PER ORDER DATED 5.10.2007
IN I.A. NO. 2006 OF 2006

BY ADV. SRI.K.A.SALIL NARAYANAN R1
SRI.P.JAYASANKAR R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 82 OF 2001

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Dated this the 5th day of October, 2007

J U D G M E N T

Petitioner in O.P(MV) No. 824 of 1995 on the file of the Motor Accidents Claims Tribunal, Vadakara, is the appellant. Appellant filed the petition claiming a compensation of Rs.75,000/- against the owner, driver and Insurer of the offending vehicle. It was averred that on 13.1.1992 petitioner was driving a Jeep bearing Reg.No.KL-11/A-2647 from Koyilandi to Atholi. When the vehicle reached near Mundoth, a lorry bearing Reg. No.KEZ-1182 driven by the second respondent came in a rash or negligent manner and hit against the Jeep causing injuries to the petitioner. The first respondent was the owner. The vehicle was covered with a valid policy of insurance issued by the third respondent. Respondents 1 and 3 contested the matter. Second respondent remained ex parte. First respondent contended that there was no negligence on the part of the second respondent and the accident occurred due to the negligence of

the petitioner himself. The quantum of compensation claimed was denied. Third respondent admitted the existence of a valid policy. It was contended that there was no negligence on the part of the driver of the lorry and the accident occurred due to the negligence of the driver of the Jeep alone.

2. The Tribunal found that the accident occurred due to the driver of the mini lorry. Tribunal awarded a sum of Rs.18,000/- and directed the Insurer to pay the same. Challenging the inadequacy of the compensation awarded, petitioner himself has filed this appeal.

3. Learned counsel appearing for the appellant has argued that though the appellant sustained head injury and clavicle fracture, no compensation was awarded by the Tribunal under those counts. It is argued that the compensation awarded on other counts is also very low. It is argued that though the appellant is a PWD Contractor and could not attend the work for a long time, no compensation was awarded for loss of earning. Tribunal has awarded Rs.1,700/- as compensation for loss of earning. It is true that the appellant had produced income tax certificate, but that

does not mean that he sustained heavy loss on account of the injuries sustained by him. There was only six days' hospitalisation. Though the appellant had claimed compensation for future treatment, there is nothing on record to show that the appellant was undergoing any treatment due to the injuries sustained in the accident. So the compensation awarded on that count is reasonable. Tribunal awarded Rs.12,000/- for pain and suffering, but it did not award any amount for disability, inconvenience, loss of amenities, etc., on account of the injuries sustained by the appellant on his head and clavicle. Considering all aspects of the matter, I am of the view that the Tribunal ought to have awarded Rs.8,000/- more towards compensation for loss of amenities, etc. So the appellant is entitled to get Rs.8,000/- as additional compensation.

4. In the result, the appeal is allowed in part. An award is passed in favour of the appellant allowing him to recover an additional compensation of Rs.8,000/- from the Insurer with 6% interest from the date of petition till date of realisation. Insurer is directed to deposit that amount also.

On deposit, the appellant can withdraw the entire amount.

Interlocutory Application No.2006 of 2006 shall stand allowed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 82 OF 2001

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J U D G M E N T

5TH OCTOBER, 2007